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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,647	04/08/2004	Ralph E. Wesinger JR.	GRAPH-005COK	9001
28661 7590 09/25/2007 SIERRA PATENT GROUP, LTD. 1657 Hwy 395, Suite 202 Minden, NV 89423			EXAMINER AHN, SANGWOO	
			ART UNIT 2166	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

mn

Office Action Summary	Application No. 10/821,647	Applicant(s) WESINGER ET AL.	
	Examiner Sangwoo Ahn	Art Unit 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20070419</u> . | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/18/2007 has been entered.

Declaration under 37 C.F.R. § 1.131

2. The affidavit filed on 7/18/2007 under 37 CFR § 1.131 has been considered but is ineffective to overcome the Dozier reference.

Formal Requirements of a Declaration

3. From MPEP § 715.04[R-2]:

The following parties may make an affidavit or declaration under 37 CFR § 1.131:

(A) All the inventors of the subject matter claimed.

(B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

(C) **> If a petition under 37 CFR § 1.47 was granted or the application was accepted under 37 CFR § 1.42 or 1.43, the affidavit

or declaration may be signed by the 37 CFR § 1.47 applicant or the legal representative, where appropriate.< .

(D) The assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor. *Ex parte Foster*, 1903 C.D. 213, 105 O.G. 261 (Comm'r Pat. 1903).

Affidavits or declarations to overcome a rejection of a claim or claims must be made by the inventor or inventors of the subject matter of the rejected claim(s), a party qualified under 37 CFR §§ 1.42, 1.43, or 1.47, or the assignee or other party in interest when it is not possible to produce the affidavit or declaration of the inventor(s). Thus, where all of the named inventors of a pending application are not inventors of every claim of the application, any affidavit under 37 CFR § 1.131 could be signed by only the inventor(s) of the subject matter of the rejected claims. Further, where it is shown that a joint inventor is deceased, refuses to sign, or is otherwise unavailable, the signatures of the remaining joint inventors are sufficient. However, the affidavit or declaration, even though signed by fewer than all the joint inventors, must show completion of the invention by all of the joint inventors of the subject matter of the claim(s) under rejection. *In re Carlson*, 79 F.2d 900, 27 USPQ 400 (CCPA 1935).

An affidavit is a statement in writing made under oath before a notary public, magistrate, or officer authorized to administer oaths. See MPEP § 604 through § 604.06 for additional information regarding formal requirements of affidavits. 37 CFR § 1.68 permits a declaration to be used instead of an affidavit. The declaration must include an acknowledgment by the declarant that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. § 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

4. From MPEP 602 (II):

U.S. Patent and Trademark Office personnel are authorized to accept a statutory declaration under 28 U.S.C. § 1746 filed in the U.S. Patent and Trademark Office in lieu of an "oath" or declaration

Art Unit: 2166

under 35 U.S.C. § 25 and 37 CFR § 1.68, provided that the statutory declaration otherwise complies with the requirements of law. Section 1746 of Title 28 of the United States Code provides:

Whenever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required to be supported, evidenced, established, or proved by sworn declaration, verification, certificate, statement, oath or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

[1] If executed without the United States:

"I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date).

(Signature)."

[2] If executed within the United States its territories, possessions, or commonwealths:

"I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date).

(Signature)."

5. The submitted declaration fails to fulfill all of the formal requirements for submission of a declaration under 37 C.F.R. §1.131.

■ All of the named inventors (Ralph Wesinger and Christopher Coley) need to sign the declaration.

■ The declarant must set forth what type of declaration he/she is making in the body of the declaration (not the Remarks).

Art Unit: 2166

■ The declarant must set forth in the body of the declaration that *all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.*

Nevertheless, in order to advance prosecution of the application, the examiner will now proceed to consider the merits of the declarations.

Allegation of FACTS

6. MPEP § 715.07 (I) states, *inter alia*,

The essential thing to be shown under 37 CFR § 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. FACTS, not conclusions, must be alleged. Evidence in the form of exhibits may accompany the affidavit or declaration. Each exhibit relied upon should be specifically referred to in the affidavit or declaration, in terms of what it is relied upon to show.

A general allegation that the invention was completed prior to the date of the reference is not sufficient. *Ex parte Saunders*, 1883 C.D. 23, 23 O.G. 1224 (Comm'r Pat. 1883). Similarly, a declaration by the inventor to the effect that his or her invention was conceived or reduced to practice prior to the reference date, without a statement of facts demonstrating the correctness of this conclusion, is insufficient to satisfy 37 CFR § 1.131.

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR § 1.131(b). *In re Borkowski*, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also *In re Harry*, 333 F.2d 920, 142 USPQ 164

(CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when the occurred.").

7. In the case of the instant declaration, the Applicants have alleged conclusions, not facts as is required under 37 C.F.R. § 1.131.

The declaration alleges that the claimed invention was reduced to practice prior to the earliest effective date of Dozier reference, a conclusion that has yet to be drawn based upon the submitted evidence.

A proper declaration is required to allege FACTS, which are fully supported by evidence.

The evidence submitted in support of the Applicant's declaration includes Exhibits 1 through 6.

■ One fact that could be alleged based upon Exhibit 1 is that Mr. Kennedy's discussion with "Skeeter" about opportunities with respect to the Internet took place prior to 12/21/1994. This FACT would be fully supported by the document.

This evidence, however, by itself, fails to support the conclusion alleged in the Applicants' declaration that the discussion was about the Internet Front Door concept as described in paragraphs 9 – 10 in the declaration, and that the claimed invention was reduced to practice prior to the earliest effective date of the Dozier reference.

■ Only fact that could be alleged based upon Exhibit 2 is the mere existence of a picture of a person swinging a gold club.

This evidence, however, by itself, fails to support the conclusion alleged in the Applicant's declaration that the *claimed invention* was reduced to practice prior to the earliest effective date of the Dozier reference.

■ One fact that could be alleged based upon Exhibits 3 – 4 is that Christopher Coley received domain registration confirmation email of golfusa.net on 05/16/1995.

This evidence, however, by itself, fails to support the conclusion alleged in the Applicant's declaration that the *claimed invention* was reduced to practice prior to the earliest effective date of the Dozier reference.

■ Similarly, Exhibits 5 – 6 also fails to support the conclusion alleged in the Applicant's declaration that the *claimed invention* was reduced to practice prior to the earliest effective date of the Dozier reference, since Exhibits 5 – 6 merely presents log files that seem to show information regarding database/website access.

As such, the Applicants have failed to meet their burden under 37 C.F.R. § 1.131(b).

Nevertheless, in order to advance prosecution of the application, the examiner will proceed to consider the remaining merits of the declaration and supporting evidence that has been submitted.

Conception

8. From MPEP § 715.07 (III):

The affidavit or declaration must state FACTS and produce such documentary evidence and exhibits in support thereof as are available to show conception and completion of invention in this country or in a NAFTA or WTO member country (MPEP §

Art Unit: 2166

715.07(c)), at least the conception being at a date prior to the effective date of the reference. Where there has not been reduction to practice prior to the date of the reference, the applicant or patent owner must also show diligence in the completion of his or her invention from a time just prior to the date of the reference continuously up to the date of an actual reduction to practice or up to the date of filing his or her application (filing constitutes a constructive reduction to practice, 37 CFR § 1.131). As discussed above, 37 CFR § 1.131(b) provides three ways in which an applicant can establish prior invention of the claimed subject matter. The showing of facts must be sufficient to show:

(A) reduction to practice of the invention prior to the effective date of the reference; or

(B) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to a subsequent (actual) reduction to practice; or

(C) conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).

Conception is the mental part of the inventive act, but it must be capable of proof, as by drawings, complete disclosure to another person, etc. In *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897), it was established that conception is more than a mere vague idea of how to solve a problem; the means themselves and their interaction must be comprehended also.

9. From MPEP § 2138.04[R-1]:

Conception has been defined as "the complete performance of the mental part of the inventive act" and it is "the formation in the mind of the inventor of a definite and permanent idea of the complete and operative invention as it is thereafter to be applied in practice...." *Townsend v. Smith*, 36 F.2d 292, 295, 4 USPQ 269, 271 (CCPA 1930). "[C]onception is established when the invention is made sufficiently clear to enable one skilled in the art to reduce it to practice without the exercise of extensive experimentation or the exercise of inventive skill." *Hiatt v. Ziegler*, 179 USPQ 757, 763 (Bd. Pat. Inter. 1973). Conception has also been defined as a disclosure of an invention which enables one skilled in the art to reduce the invention to a practical form without "exercise of the inventive

Art Unit: 2166

faculty." *Gunter v. Stream*, 573 F.2d 77, 197 USPQ 482 (CCPA 1978). See also *Coleman v. Dines*, 754 F.2d 353, 224 USPQ 857 (Fed. Cir. 1985) (It is settled that in establishing conception a party must show possession of every feature recited in the count, and that every limitation of the count must have been known to the inventor at the time of the alleged conception. Conception must be proved by corroborating evidence.)

10. In the case of the instant affidavit, since the Applicant is alleging actual reduction to practice before the date of the applied reference, the date of conception is not an issue.

Diligence

11. From MPEP § 715.07(a):

Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege that applicant or patent owner had been diligent. *Ex parte Hunter*, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence.

What is meant by diligence is brought out in *Christie v. Seybold*, 1893 C.D. 515, 64 O.G. 1650 (6th Cir. 1893). In patent law, an inventor is either diligent at a given time or he is not diligent; there are no degrees of diligence. An applicant may be diligent within the meaning of the patent law when he or she is doing nothing, if his or her lack of activity is excused. Note, however, that the record must set forth an explanation or excuse for the inactivity; the USPTO or courts will not speculate on possible explanations for delay or inactivity. See *In re Nelson*, 420 F.2d 1079, 164 USPQ 458 (CCPA 1970). Diligence must be judged on the basis of the particular facts in each case. See MPEP § 2138.06 for a detailed discussion of the diligence requirement for proving prior invention.

Under 37 CFR 1.131, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity and ends with the date of a reduction to practice, either actual or constructive (i.e., filing a United States patent application). Note, therefore, that only diligence before

Art Unit: 2166

reduction to practice is a material consideration. The "lapse of time between the completion or reduction to practice of an invention and the filing of an application thereon" is not relevant to an affidavit or declaration under 37 CFR 1.131. See *Ex parte Merz*, 75 USPQ 296 (Bd. App. 1947).

12. As stated above, since the Applicant alleges an actual reduction to practice prior to the date of the applied reference, diligence is not an issue.

Reduction to Practice

13. Regarding reduction to practice, MPEP § 715.07 states:

In general, proof of actual reduction to practice requires a showing that the apparatus actually existed and worked for its intended purpose.

14. From MPEP § 2138.05:

Reduction to practice may be an actual reduction or a constructive reduction to practice which occurs when a patent application on the claimed invention is filed. The filing of a patent application serves as conception and constructive reduction to practice of the subject matter described in the application. Thus the inventor need not provide evidence of either conception or actual reduction to practice when relying on the content of the patent application. *Hyatt v. Boone*, 146 F.3d 1348, 1352, 47 USPQ2d 1128, 1130 (Fed. Cir. 1998).

When a party to an interference seeks the benefit of an earlier-filed U.S. patent application, the earlier application must meet the requirements of 35 U.S.C. § 120 and 35 U.S.C. § 112, first paragraph for the subject matter of the count. The earlier application must meet the enablement requirement and must contain a written description of the subject matter of the interference count. *Hyatt v. Boone*, 146 F.3d 1348, 1352, 47

USPQ2d 1128, 1130 (Fed. Cir. 1998). Proof of a constructive reduction to practice requires sufficient disclosure under the "how to use" and "how to make" requirements of 35 U.S.C. § 112, first paragraph. *Kawai v. Metlesics*, 480 F.2d 880, 886, 178 USPQ 158, 163 (CCPA 1973) (A constructive reduction to practice is not proven unless the specification discloses a practical utility where one would not be obvious. Prior art which disclosed an anticonvulsant compound which differed from the claimed compound only in the absence of a -CH₂- group connecting two functional groups was not sufficient to establish utility of the claimed compound because the compounds were not so closely related that they could be presumed to have the same utility.). The purpose of the written description requirement is "to ensure that the inventor had possession, as of the filing date of the application relied on, of the specific subject matter later claimed by him." *In re Edwards*, 568 F.2d 1349, 1351-52, 196 USPQ 465, 467 (CCPA 1978). The written description must include all of the limitations of the interference count, or the applicant must show that any absent text is necessarily comprehended in the description provided and would have been so understood at the time the patent application was filed. Furthermore, the written description must be sufficient, when the entire specification is considered, such that the "necessary and only reasonable construction" that would be given it by a person skilled in the art is one that clearly supports each positive limitation in the count. *Hyatt v. Boone*, 146 F.3d at 1354-55, 47 USPQ2d at 1130-1132 (Fed. Cir. 1998) (The claim could be read as describing subject matter other than that of the count and thus did not establish that the applicant was in possession of the invention of the count.). See also *Bigham v. Godtfredsen*, 857 F.2d 1415, 1417, 8 USPQ2d 1266, 1268 (Fed. Cir. 1988) ("[t]he generic term halogen comprehends a limited number of species, and ordinarily constitutes a sufficient written description of the common halogen species, except where the halogen species are patentably distinct).

"In an interference proceeding, a party seeking to establish an actual reduction to practice must satisfy a two-prong test: (1) the party constructed an embodiment or performed a process that met every element of the interference count, and (2) the embodiment or process operated for its intended purpose." *Eaton v. Evans*, 204 F.3d 1094, 1097, 53 USPQ2d 1696, 1698 (Fed. Cir. 2000).

The same evidence sufficient for a constructive reduction to practice may be insufficient to establish an actual reduction to practice, which requires a showing of the invention in a physical or tangible form that shows every element of the count. *Wetmore v.*

Art Unit: 2166

Quick, 536 F.2d 937, 942, 190 USPQ 223, 227 (CCPA 1976). For an actual reduction to practice, the invention must have been sufficiently tested to demonstrate that it will work for its intended purpose, but it need not be in a commercially satisfactory stage of development.

If a device is so simple, and its purpose and efficacy so obvious, construction alone is sufficient to demonstrate workability. *King Instrument Corp. v. Otari Corp.*, 767 F.2d 853, 860, 226 USPQ 402, 407 (Fed. Cir. 1985).

For additional cases pertaining to the requirements necessary to establish actual reduction to practice see *DSL Dynamic Sciences, Ltd. v. Union Switch & Signal, Inc.*, 928 F.2d 1122, 1126, 18 USPQ2d 1152, 1155 (Fed. Cir. 1991) ("events occurring after an alleged actual reduction to practice can call into question whether reduction to practice has in fact occurred"); *Corona v. Dovan*, 273 U.S. 692, 1928 C.D. 252 (1928) ("A process is reduced to practice when it is successfully performed. A machine is reduced to practice when it is assembled, adjusted and used. A manufacture [i.e., article of manufacture] is reduced to practice when it is completely manufactured. A composition of matter is reduced to practice when it is completely composed." 1928 C.D. at 262-263 (emphasis added).); *Fitzgerald v. Arbib*, 268 F.2d 763, 765-66, 122 USPQ 530, 531-32 (CCPA 1959) ("the reduction to practice of a three-dimensional design invention requires the production of an article embodying that design" in "other than a mere drawing").

"The nature of testing which is required to establish a reduction to practice depends on the particular facts of each case, especially the nature of the invention." *Gellert v. Wanberg*, 495 F.2d 779, 783, 181 USPQ 648, 652 (CCPA 1974) ("an invention may be tested sufficiently ... where less than all of the conditions of actual use are duplicated by the tests"); *Wells v. Fremont*, 177 USPQ 22, 24-5 (Bd. Pat. Inter. 1972) ("even where tests are conducted under bench' or laboratory conditions, those conditions must fully duplicate each and every condition of actual use' or if they do not, then the evidence must establish a relationship between the subject matter, the test condition and the intended functional setting of the invention," but it is not required that all the conditions of all actual uses be duplicated, such as rain, snow, mud, dust and submersion in water).

15. In this case, an actual reduction to practice is alleged to have occurred prior to the earliest effective date of the Dozier reference. However, actual reduction to practice is not fully supported by the documents submitted as evidence.

The Applicants have failed to resolve (at least) the following issues which call into question the actual reduction to practice as alleged in the Applicants' declaration:

- * Paragraph 18 in the declaration states that the website was available by at least May 12, 1995, but Exhibit 4 shows that the domain registration was complete by May 16, 1995.

- * Whether the discussion with Mr. Kennedy prior to 12/21/1994 was about Internet Front Door concept as described in paragraphs 9 – 10 in the declaration.

- * Whether the "source code" in Exhibit 5 was reproducible.

- * Whether the "source code" in Exhibit 5 would have resulted in the invention including all of the claim limitations.

- * Whether the "Golf USA website" capable of carrying out all of the claimed features existed at least by 05/12/1995

- * Whether the "source code" in Exhibit 5 was the final version, or if there were further modifications to the code.

For the reasons cited above, the declarations filed by the Applicants under 37 C.F.R. § 1.131 fail to establish that the claimed invention was reduced to practice prior to the critical period, and also fails to establish that the claimed invention was conceived prior to the critical period and diligently reduced to practice thereafter. As such, the

Art Unit: 2166

affidavit is insufficient to establish invention prior to the prior art references relied upon in the rejections of record. The rejections are maintained by the examiner.

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

17. Claims 1, 3 – 11, 12, 14 – 22 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Number 5,870,552 issued to Linda T. Dozier et al (hereinafter "Dozier").

■ Regarding claim 1, Dozier discloses,

A method for searching a database on a web site comprising:

providing a web server having an associated database, the web server being accessible to users over a public network (Figure 3, Abstract lines 4 – 5, column 1 line 22, et seq.);

providing HTML front-ending tools for facilitating an owner being able to add an entry to the database and index the entry with a user-defined keyword using a standard web browser without the need for any additional user software (Figure 10b, column 1 line 57, column 2 line 50, column 3 lines 60 – 61, column 6 lines 7 – 10, et seq.);

receiving a request from a user to search for information on the web site (column 3 line 54, et seq.);

searching a database associated with said web site according to said user's search criteria (Figures 4 and 10d, column 7 line 44, column 16 line 19 – 20, et seq.);

presenting a search result page responsive to said search containing results arranged in list form, each of said search results comprising a link to a corresponding full page entry stored in said web site (Figures 4, 8a – 8b, column 4 lines 7 – 10, et seq.);

receiving a request from said user to view one of a selected search results on said search result page (Figure 4, 8a – 8b, column 16 lines 43 – 44, et seq.); and

presenting a full page entry corresponding to said selected search result (Figures 4, 8a – 8b, column 3 lines 54 – 56, et seq.).

■ Regarding claim 3, Dozier discloses,

said full page entry has a URL different than said web site (Figures 8a – 9b, et seq.).

■ Regarding claim 4, Dozier discloses,

said act of searching said database includes searching by category (column 15 lines 55 – 57; 65 – 66, column 16 lines 43 – 44, et seq.).

■ Regarding claim 5, Dozier discloses,

said act of searching said database includes searching by keyword (Figures 10b – 10d, column 15 lines 55 – 57; 65 – 66, column 16 lines 43 – 44, et seq.).

■ Regarding claim 6, Dozier discloses,

Art Unit: 2166

said act of searching said database includes searching by URL (Figures 10b – 10d, column 15 lines 55 – 57; 65 – 66, column 16 lines 43 – 44, et seq.).

■ Regarding claim 7, Dozier discloses,

presenting a page containing a pre-sorted listing corresponding to the most common searches performed on said web site (Figures 8a – 8b, column 3 lines 7 – 10, et seq.).

■ Regarding claim 8, Dozier discloses,

said act of searching said database includes searching by sub-category (Figures 4, 10b – 10d, column 15 lines 55 – 57; 65 – 66, column 16 lines 43 – 44, et seq.).

■ Regarding claim 9, Dozier discloses,

said act of searching said database includes searching by category tree.

■ Regarding claim 10, Dozier discloses,

said act of searching said database includes searching by category and keyword (Figures 4, 10b – 10d, column 15 lines 55 – 57; 65 – 66, column 16 lines 43 – 44, et seq.).

■ Regarding claim 11, Dozier discloses,

said act of searching said database includes searching by category, keyword and URL (Figures 10b – 10d, column 15 lines 55 – 57; 65 – 66, column 16 lines 43 – 44, et seq.).

■ Claims 12, 14 – 22 are essentially the same as claims 1, 3 – 11 except they set forth the limitations as “an apparatus” rather than “a method”, therefore are rejected based on the same rationale discussed in claims 1, 3 – 11 rejections.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dozier in view of U.S. Patent Number 5,550,976 issued to Kenneth R. Henderson et al (hereinafter "Henderson").

- Regarding claim 2, Dozier discloses the method of claim 1.

Dozier does not explicitly disclose logging in by said user.

However, Henderson discloses logging in by the user (column 7 lines 60 – 65, et seq.). At the time of the present invention, it would have been obvious to a person of ordinary skill in the data processing art to combine the two references because Henderson's login method would have enabled Dozier's overall system to be robust, tamper resistant, highly data secure and virus resistant (column 4 lines 28 – 29, et seq.).

- Claim 13 is rejected based on the same rationale discussed above.

Contact Information

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sangwoo Ahn whose telephone number is (571) 272-5626. The examiner can normally be reached on M-F 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571)272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9/19/2007 SW


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